

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

**CHRISTOPHER MORGAN, individually  
and on behalf of a class of persons and  
entities similarly situated,**

**Plaintiff,**

**v.**

**ON DECK CAPITAL, INC.**

**Defendant.**

**Civil Action No. 3:17-cv-00045-NKM**

**Memorandum in Support of Motion for Reconsideration**

**EXHIBIT A**

**In the Matter Of:**

**MORGAN vs ON DECK CAPITAL INC**

3:17-cv-00045-NKM

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**RANDALL A. SNYDER**

*April 23, 2019*

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1 UNITED STATES DISTRICT COURT

2 FOR THE

3 WESTERN DISTRICT OF VIRGINIA

4  
5 CHRISTOPHER MORGAN,

6 Plaintiff,

7 vs.

Civil Action No.  
3:17-cv-00045-NKM

8 ON DECK CAPITAL, INC.,

9 Defendant.

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16 DEPOSITION OF RANDALL A. SNYDER

17 Taken Tuesday, April 23, 2019

18 At 9:30 A.m.

19 At 2300 W. Sahara, Suite 770

20 Las Vegas, Nevada 89102

21  
22  
23  
24  
25 Janet Marie Backus, #107

1 APPEARANCES:

2 For the Plaintiff:

3 RYAN MCCUNE DONOVAN, ESQ.  
4 HISSAM FORMAN DONOVAN RITCHIE  
5 707 Virginia Street East, Suite 260  
6 Charleston, WV 25301

6 For the Defendant:

7 DAVE GETTINGS, ESQ.  
8 BROOKE CONKLE, ESQ. (Telephonically)  
9 TROUTMAN SANDERS LLP  
10 222 Central Park Avenue, Suite 2000  
11 Virginia Beach, VA 23462  
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1 BY MR. GETTINGS:

2 Q So, let me make sure that I am clear. You  
3 do not opine that the Five9, either the VCC or the --  
4 Let's not parse. You do not opine that any of the  
5 Five9 system that On Deck uses uses a random or  
6 sequential number generator; is that right?

7 A No. I am saying that the Five9 automatic  
8 dialing system known as the Virtual Contact Center  
9 which has multiple dialing modes and functions within  
10 it does not have a function to generate numbers out of  
11 thin air. It can store numbers, therefore, it can  
12 store or do other things.

13 Q Okay.

14 A As an English phrase. Just as plain  
15 ordinary English.

16 Q So, you do not opine that the Five9  
17 telephone system, and we can debate whether the manual  
18 touch mode is the same as a VCC, you do not opine that  
19 the Five9 VCC or manual touch mode use a random number  
20 generator, correct, to generate numbers to call?

21 A Well, there's two things there. First of  
22 all, manual touch mode is a function contained within  
23 the Virtual Contact Center manual as just a technical  
24 fact.

25 Q Okay.

1           A       And the second thing is that I am not  
2   opining that the Five9 Virtual Contact Center as an  
3   automatic dialing system generates any numbers out of  
4   thin air.

5           Q       And when you say out of thin air, that would  
6   mean random or sequential numbers? Is that what  
7   you're saying?

8           A       Or with magic or any other way.

9           Q       So, we agree that it does not generate  
10   numbers with magic nor does it generate numbers  
11   randomly or sequentially?

12          A       That's correct.

13               BY MR. DONOVAN: Glad we clarified that.

14               BY MR. GETTINGS:

15          Q       Glad we clarified that. Okay. The second  
16   opinion is that On Deck utilized equipment which has  
17   the capacity to dial telephone numbers without human  
18   intervention, correct?

19          A       Yes.

20          Q       All right. So, I understand you were going  
21   to call it a dialing mode, so, I will use it in that  
22   same way. Is it your position that the manual touch  
23   mode dialing mode that On Deck used to call plaintiff  
24   in June 2017 can dial numbers automatically and  
25   without human intervention?

REPORTER'S CERTIFICATE

STATE OF NEVADA           )  
  ) ss.  
COUNTY OF CLARK        )

I, Janet Marie Backus, a duly commissioned  
Notary Public in Clark County, State of Nevada, do  
hereby certify:

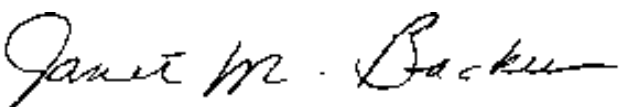
That I reported the taking of the deposition  
of Randall A. Snyder on April 23, 2019 commencing at  
the hour of 9:30 a.m.

That prior to being examined, the witness  
was by me duly sworn to testify to the truth, the  
whole truth and nothing but the truth. That review  
was not requested.

That I thereafter transcribed my said  
shorthand notes into typewriting and that the  
typewritten transcription of said shorthand deposition  
is a complete, true and accurate transcription of my  
said shorthand notes taken down at said time.

I further certify that I am not a relative  
or employee of an attorney or counsel involved in said  
action, nor a person financially interested in said  
action.

IN WITNESS WHEREOF, I have hereunto set my  
hand in my office in the County of Clark, State of  
Nevada this 25th day of April, 2019.



JANET M. BACKUS, #107